

§ 2200.54

a written response within 30 days after service of the request, unless the requesting party allows a longer time. The Commission or Judge may allow a shorter time or a longer time, should the requesting party deny an extension. The response shall state, with respect to each item or category, that inspection and related activities will be permitted as requested, unless the request is objected to in whole or in part, in which event the reasons for objection shall be stated. If objection is made to part of an item or category, that part shall be specified. To obtain a ruling on an objection by the responding party, the requesting party shall file a motion with the Judge and shall annex thereto his request, together with the response and objections, if any.

[51 FR 32015, Sept. 8, 1986, as amended at 57 FR 41686, Sept. 11, 1992]

§ 2200.54 Requests for admissions.

(a) *Scope.* At any time after the filing of the first responsive pleading or motion that delays the filing of an answer, such as a motion to dismiss, any party may serve upon any other party written requests for admissions, for purposes of the pending action only, of the genuineness and authenticity of any document described in or attached to the requests, or of the truth of any specified matter of fact. Each matter of which an admission is requested shall be separately set forth. The number of requested admissions shall not exceed 25, including subparts, without an order of the Commission or Judge. The party seeking to serve more than 25 requested admissions, including subparts, shall have the burden of persuasion to establish that the complexity of the case or the number of citation items necessitates a greater number of requested admissions.

(b) *Response to requests.* Each matter is deemed admitted unless, within 30 days after service of the requests or within such shorter or longer time as the Commission or Judge may allow, the party to whom the requests are directed serves upon the requesting party a written answer specifically admitting or denying the matter involved in whole or in part, or asserting that it cannot be truthfully admitted or de-

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nied and setting forth in detail the reasons why this is so, or an objection, stating in detail the reasons therefor. The response shall be made under oath or affirmation and signed by the party or his representative.

(c) *Effect of admission.* Any matter admitted under this section is conclusively established unless the Judge or Commission on motion permits withdrawal or modification of the admission. Withdrawal or modification may be permitted when the presentation of the merits of the case will be subserved thereby, and the party who obtained the admission fails to satisfy the Commission or Judge that the withdrawal or modification will prejudice him in presenting his case or defense on the merits.

[51 FR 32015, Sept. 8, 1986, as amended at 70 FR 22790, May 3, 2005; 70 FR 25652, May 13, 2005]

§ 2200.55 Interrogatories.

(a) *General.* At any time after the filing of the first responsive pleading or motion that delays the filing of an answer, such as a motion to dismiss, any party may serve interrogatories upon any other party. The number of interrogatories shall not exceed 25 questions, including subparts, without an order of the Commission or Judge. The party seeking to serve more than 25 questions, including subparts, shall have the burden of persuasion to establish that the complexity of the case or the number of citation items necessitates a greater number of interrogatories.

(b) *Answers.* All answers shall be made in good faith and as completely as the answering party's information will permit. The answering party is required to make reasonable inquiry and ascertain readily obtainable information. An answering party may not give lack of information or knowledge as an answer or as a reason for failure to answer, unless he states that he has made reasonable inquiry and that information known or readily obtainable by him is insufficient to enable him to answer the substance of the interrogatory.

(c) *Procedure.* Each interrogatory shall be answered separately and fully

under oath or affirmation. If the interrogatory is objected to, the objection shall be stated in lieu of the answer. The answers are to be signed by the person making them and the objections shall be signed by the party or his counsel. The party on whom the interrogatories have been served shall serve a copy of his answers or objections upon the propounding party within 30 days after the service of the interrogatories. The Judge may allow a shorter or longer time. The burden shall be on the party submitting the interrogatories to move for an order with respect to any objection or other failure to answer an interrogatory.

§ 2200.56 Depositions.

(a) *General.* Depositions of parties, intervenors, or witnesses shall be allowed only by agreement of all the parties, or on order of the Commission or Judge following the filing of a motion of a party stating good and just reasons. All depositions shall be before an officer authorized to administer oaths and affirmations at the place of examination. The deposition shall be taken in accordance with the Federal Rules of Civil Procedure, particularly Federal Rule of Civil Procedure 30.

(b) *When to file.* A motion to take depositions may be filed after the filing of the first responsive pleading or motion that delays the filing of an answer, such as a motion to dismiss.

(c) *Notice of taking.* Any depositions allowed by the Commission or Judge may be taken after 10 days written notice to the other party or parties. The 10-day notice requirement may be waived by the parties.

(d) *Expenses.* Expenses for a court reporter and the preparing and serving of depositions shall be borne by the party at whose instance the deposition is taken.

(e) *Use of depositions.* Depositions taken under this rule may be used for discovery, to contradict or impeach the testimony of a deponent as a witness, or for any other purpose permitted by the Federal Rules of Evidence and the Federal Rules of Civil Procedure, particularly Federal Rule of Civil Procedure 32.

(f) *Excerpts from depositions to be offered at hearing.* Except when used for

purposes of impeachment, at least 5 working days prior to the hearing, the parties or counsel shall furnish to the Judge and all opposing parties or counsel the excerpts from depositions (by page and line number) which they expect to introduce at the hearing. Four working days thereafter, the adverse party or counsel for the adverse party shall furnish to the Judge and all opposing parties or counsel additional excerpts from the depositions (by page and line number) which they expect to be read pursuant to Federal Rule of Civil Procedure 32(a)(4), as well as any objections (by page and line number) to opposing party's or counsel's depositions. With reasonable notice to the Judge and all parties or counsel, other excerpts may be read.

(g) *Telephone depositions.* (1) Telephone depositions may be conducted pursuant to Federal Rule of Civil Procedure 30(b)(4).

(2) If a party objects to a telephone deposition, he shall make known his objections at least 5 days prior to the taking of the deposition. If the objection is not resolved by the parties or the Judge before the scheduled deposition date, the deposition shall be stayed pending resolution of the dispute.

(h) *Video depositions.* By indicating in its notice of a deposition that it wishes to record the deposition by videotape (and identifying the proposed videotape operator), a party shall be deemed to have moved for such an order under Federal Rule of Civil Procedure 30(b)(3). Unless an objection is filed and served within 10 days after such notice is received, the Judge shall be deemed to have granted the motion pursuant to the following terms and conditions:

(1) *Stenographic recording.* The videotaped deposition shall be simultaneously recorded stenographically by a qualified court reporter. The court reporter shall administer the oath or affirmation to the deponents on camera. The written transcript by the court reporter shall constitute the official record of the deposition for purposes of Federal Rule of Civil Procedure 30(e) (submission to witness).

(2) *Cost.* The noticing party shall bear the expense of both the videotaping and the stenographic recording. Any